



COUNCIL AGENDA - CITY OF BURBANK
TUESDAY, AUGUST 29, 2006
5:30 P.M.

CITY COUNCIL CHAMBER – 275 EAST OLIVE AVENUE

This agenda contains a summary of each item of business which the Council may discuss or act on at this meeting. The complete staff report and all other written documentation relating to each item on this agenda are on file in the office of the City Clerk and the reference desks at the three libraries and are available for public inspection and review. If you have any question about any matter on the agenda, please call the office of the City Clerk at (818) 238-5851. This facility is disabled accessible. Auxiliary aids and services are available for individuals with speech, vision or hearing impairments (48-hour notice is required). Please contact the ADA Coordinator at (818) 238-5021 voice or (818) 238-5035 TDD with questions or concerns.

CLOSED SESSION ORAL COMMUNICATIONS IN COUNCIL CHAMBER:

Comments by the public on Closed Session items only. These comments will be limited to **three** minutes.

For this segment, a **PINK** card must be completed and presented to the City Clerk.

CLOSED SESSION IN CITY HALL BASEMENT LUNCH ROOM/CONFERENCE ROOM:

Conference with Labor Negotiator:

Pursuant to Govt. Code §54957.6

Name of the Agency Negotiator: Management Services Director/Judie Sarquiz.

Name of Organization Representing Employee: Burbank Firefighters Association.

Summary of Labor Issues to be Negotiated: Contracts and Retirement Issues.

When the Council reconvenes in open session, the Council may make any required disclosures regarding actions taken in Closed Session or adopt any appropriate resolutions concerning these matters.

6:30 P.M.

INVOCATION:

Dr. Reverend Harry Morgan Moses, Spirit Works Center.
The Courts have concluded that sectarian prayer as part of City Council meetings is not permitted under the Constitution.

FLAG SALUTE:

ROLL CALL:

ANNOUNCEMENT:

DARK MEETING ON SEPTEMBER 5, 2006.

PROCLAMATION: LIBRARY CARD SIGN-UP MONTH.

COUNCIL COMMENTS: (Including reporting on Council Committee Assignments)

INTRODUCTION OF ADDITIONAL AGENDA ITEMS:

At this time additional items to be considered at this meeting may be introduced. As a general rule, the Council may not take action on any item which does not appear on this agenda. However, the Council may act if an emergency situation exists or if the Council finds that a need to take action arose subsequent to the posting of the agenda. Govt. Code §54954.2(b).

6:30 P.M. PUBLIC HEARING:

1. ORDINANCE TO EXTEND PLAN LIMITS OF THE GOLDEN STATE, CITY CENTRE AND WEST OLIVE REDEVELOPMENT PROJECT AREAS AS AUTHORIZED BY SENATE BILL 1096:

The purpose of this report is to introduce three ordinances extending the Redevelopment Plan (Plan) effectiveness dates and the debt repayment and receipt of tax increment dates by one year for the Golden State, City Centre and West Olive Redevelopment Project Areas in accordance with Senate Bill (SB) 1096. [Health and Safety Code §33333.2 (d)(4) and 33333.6(e)(2)(D)]

In 1992, the State Legislature for the first time enacted Educational Revenue Augmentation Funds (ERAF) to reduce the State's obligations to fund education and reduce a portion of the State's budget shortfall. ERAF reallocates a portion of Property Tax revenues due to local governments (counties, cities, special districts and redevelopment agencies) to fund education, thereby reducing the State General Fund allocations to school districts. As a component of the Fiscal Year (FY) 2004-05 State budget, the Legislature adopted SB 1096, which required every redevelopment agency to make an ERAF payment to the County Auditor for FYs 2004-05 and 2005-06.

In an effort to offset the financial burden caused by the ERAF payments, SB 1096 authorizes redevelopment agencies to amend their redevelopment plans to extend the time limits of effectiveness of their plans and to extend the dates for debt repayment and receipt of tax increment. Under SB 1096, redevelopment agencies may amend their redevelopment plans, depending upon the time remaining in the lives of these plans, by one year if the agency was required to make an ERAF payment for FY 2004-05 and an additional year if the agency was required to make an ERAF payment for FY 2005-06.

On August 30, 2005, the Council adopted an ordinance to extend the effectiveness dates of the plans by one year for payment of the FY 2004-05 ERAF payment. At that time, staff recommended that after the FY 2005-06 payment had been made, staff would return for a second one-year time extension for the Council's

consideration.

Since the Agency remitted ERAF payments totaling \$2,498,676.73 for FY 2005-06 and because the Golden State, City Centre and West Olive Redevelopment Plans satisfy the SB 1096 requirements and notice of the public hearing has been given, the time limits for plan effectiveness and the time limit to repay indebtedness and receive tax increment for each plan may be extended by an additional year.

Recommendation:

Introduction of proposed ordinances entitled:

1. AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK EXTENDING THE TIME LIMITS ON THE LIFE OF THE CITY CENTRE REDEVELOPMENT PROJECT AREA REDEVELOPMENT PLAN AND THE TIME LIMITS TO COLLECT TAX INCREMENT FROM THE CITY CENTRE REDEVELOPMENT PROJECT AREA REDEVELOPMENT PLAN FOR THE PAYMENT OF INDEBTEDNESS.
2. AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK EXTENDING THE TIME LIMITS ON THE LIFE OF THE GOLDEN STATE REDEVELOPMENT PROJECT AREA REDEVELOPMENT PLAN AND THE TIME LIMITS TO COLLECT TAX INCREMENT FROM THE GOLDEN STATE REDEVELOPMENT PROJECT AREA REDEVELOPMENT PLAN FOR THE PAYMENT OF INDEBTEDNESS.
3. AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK EXTENDING THE TIME LIMITS ON THE LIFE OF THE WEST OLIVE REDEVELOPMENT PROJECT AREA REDEVELOPMENT PLAN AND THE TIME LIMITS TO COLLECT TAX INCREMENT FROM THE WEST OLIVE REDEVELOPMENT PROJECT AREA REDEVELOPMENT PLAN FOR THE PAYMENT OF INDEBTEDNESS.

REPORTING ON CLOSED SESSION:

INITIAL OPEN PUBLIC COMMENT PERIOD OF ORAL COMMUNICATIONS: (Two minutes on any matter concerning City Business.)

There are four segments of Oral Communications during the Council Meeting. The first precedes the Closed Session items, the second and third segments precede the main part of the City Council's business (but follow announcements and public hearings), and the fourth is at the end of the meeting following all other City business.

Closed Session Oral Communications. During this period of oral communications, the public may comment only on items listed on the Closed Session Agenda(s). A **PINK** card must be completed and presented to the City Clerk. Comments will be limited to **three** minutes.

Initial Open Public Comment Period of Oral Communications. During this period of Oral Communications, the public may comment on any matter concerning City Business. A **BLUE** card must be completed and presented to the City Clerk. NOTE: Any person speaking during this segment may not speak during the third period of Oral Communications. Comments will be limited to **two** minutes.

Agenda Item Oral Communications. This segment of Oral Communications immediately follows the first period, but is limited to comments on action items on the agenda for this meeting. For this segment, a **YELLOW** card must be completed and presented to the City Clerk. Comments will be limited to **four** minutes.

Final Open Public Comment Period of Oral Communications. This segment of oral communications follows the conclusion of agenda items at the end of the meeting. The public may comment at this time on any matter concerning City Business. NOTE: Any member of the public speaking at the Initial Open Public Comment Period of Oral Communications may not speak during this segment. For this segment, a **GREEN** card must be completed and presented to the City Clerk. Comments will be limited to **two** minutes.

City Business. City business is defined as any matter that is under the jurisdiction of the City Council. Although other topics may be of interest to some people, if those topics are not under City Council jurisdiction, they are not City business and may not be discussed during Oral Communications.

Videotapes/Audiotapes. Videotapes or audiotapes may be presented by any member of the public at any period of Oral Communications or at any public hearing. Such tapes may not exceed the time limit of the applicable Oral Communications period or any public comment period during a public hearing. The playing time for the tape shall be counted as part of the allowed speaking time of that member of the public during that period.

Videotapes must be delivered to the Public Information Office by no later than 10:00 a.m. on the morning of the Council meeting in a format compatible with the City's video equipment. Neither videotapes nor audiotapes will be reviewed for content or edited by the City prior to the meeting, but it is suggested that the tapes not include material that is slanderous, pornographic, demeaning to any person or group of people, an invasion of privacy of any person, or inclusive of material covered by copyright.

Printed on the videocassette cover should be the name of the speaker, the period of oral communication the tape is to be played, and the total running time of the segment. The Public Information Office is not responsible for "cueing up" tapes, rewinding tapes, or fast forwarding tapes. To prevent errors, there should be ten seconds of blank tape at the beginning and end of the segment to be played. Additionally, the speaker should provide the first sentence on the tape as the "in cue" and the last sentence as the "out cue". As with all Oral Communications, videotapes and audiotapes are limited to the subject matter jurisdiction of the City and may be declared out of order by the Mayor.

Disruptive Conduct. The Council requests that you observe the order and decorum of our Council Chamber by turning off or setting to vibrate all cellular telephones and pagers, and that you refrain from making personal, impertinent, or slanderous remarks. Boisterous and disruptive behavior while the Council is in session, and the display of signs in a manner which violates the rights of others or prevents others from watching or fully participating in the Council meeting, is a violation of our Municipal Code and any person who engages in such conduct can be ordered to leave the Council Chamber by the Mayor.

Once an individual is requested to leave the Council Chamber by the Mayor, that individual may not return to the Council Chamber for the remainder of the meeting. BMC §2-216(b).

Individuals standing in the Council Chamber will be required to take a seat. Also, no materials shall be placed in the aisles in order to keep the aisles open and passable. BMC §2-217(b).

Your participation in City Council meetings is welcome and your courtesy will be appreciated.

COUNCIL AND STAFF RESPONSE TO OPEN PUBLIC COMMENT AND AGENDA ITEM PERIOD OF ORAL COMMUNICATIONS:

AGENDA ITEM ORAL COMMUNICATIONS: (Four minutes on Action Agenda items only.)

COUNCIL AND STAFF RESPONSE TO AGENDA ITEM ORAL COMMUNICATIONS:

RECESS for the Redevelopment Agency and Youth Endowment Services Fund Board meetings.

RECONVENE for the City Council meeting.

CONSENT CALENDAR: (Items 2 through 5)

The following items may be enacted by one motion. There will be no separate discussion on these items unless a Council Member so requests, in which event the item will be removed from the consent calendar and considered in its normal sequence on the agenda. A **roll call** vote is required for the consent calendar.

2. DESIGNATION OF YOUTH ENDOWMENT SERVICES FUNDS:

The purpose of this report is to request the Council, Redevelopment Agency (Agency) Board and Youth Endowment Services (YES) Fund Board, to approve a contract with the Burbank Unified School District (BUSD) awarding \$24,000 in YES funds for improvements to the Luther Burbank Middle School (Luther) gym floor. This gym is

used extensively by City youth and adult sports programs as well as after school programs. In addition, staff requests that the Financial Services Director be authorized to formally designate \$1,272,204 in YES funds to the Robert R. Ovrorn Park (Park) Project. Both appropriations were approved during the Fiscal Year (FY) 2006-07 budget process; however, certain findings must be made prior to using the funds.

The YES Fund was established in January 1991 for the purpose of providing, encouraging and supporting activities that benefit the development of youth residing in the City. The public contribution to this effort is a Council/Agency pledge of five percent of the incremental tax revenue produced in the Golden State, West Olive and City Centre Redevelopment Project Areas. These tax increment contributions to the YES Fund can only be used for capital improvement-type projects.

City youth and adult sports programs utilize the Luther gym for practices and games during the months of September through March, as well as some evenings during the summer months. In addition, the facility is utilized for the City's after school program. The gym floor has significant water damage and is not usable for basketball and volleyball games. BUSD staff is renovating the Luther gym facility (excluding the floors) and locker rooms, including installation of a new roof, sealing and painting of the walls. BUSD requested financial assistance for the replacement of the Luther gym floor.

During the FY 2006-07 budget process, the Council approved certain appropriations of YES funds; \$1,272,204 for the Park and \$24,000 for the Luther gym floor. These funds are from FY 2004-05 and FY 2005-06 YES Fund balance. Although the Council approved these appropriations, the necessary legal findings required by Section 33445 of the California Health and Safety Code were not included during the budget process. Before spending YES funds, the Agency Board needs to authorize those proposed expenditures, but can do so only if the Council consents to such expenditures and makes the required Redevelopment Law findings. The two expenditures are: 1) \$24,000 for Luther, which is outside of a Redevelopment Project Area; and, 2) \$1,272,204 for the Park project which is located in the South San Fernando Project Area.

The findings set forth in Section 33445 can be made here, as set forth below:

1. That the improvements are of benefit to the project area or the immediate neighborhood in which the project is located:
 - a) Luther expenditure: The project will benefit the West Olive Redevelopment Project Area and the Burbank Merged Redevelopment Project Area (consisting of City Centre, Golden State and South San Fernando Redevelopment Project Areas) by providing recreational facilities at Luther that are available to children throughout the City and specifically to those within the City's Redevelopment Project Areas, Focus Neighborhoods and affordable housing developments.

b) Park project expenditure: The project is located in the Burbank Merged Redevelopment Project Area and benefits the project area, specifically the area designated as the South San Fernando Project Area, by providing additional park space.

2. That no other reasonable means of financing the improvements are available to the community.

Inasmuch as the City's General Fund has committed its resources to other capital projects, there is no other reasonable means of financing these two projects.

3. That the payment of funds for the public improvements will assist in the elimination of one or more blighting conditions inside the project area, and is consistent with the implementation plan adopted pursuant to Section 33490.

The redevelopment purpose served by these proposed capital expenditures is the elimination of blighted infrastructure conditions in recreation facilities that serves those residents living inside the City's Redevelopment Project Areas, Focus Neighborhoods and affordable housing developments (in addition to other residents). This type of expenditure is consistent with the Agency's Five-Year Implementation Plan (July 2004 to June 2009 adopted December 2004, pursuant to Section 33490 of the Health and Safety Code), which included a public facilities and improvements component. Specifically, the Plan sets forth the goal of improving public infrastructure systems, and providing for the installation of new public improvements to meet the requirements of new development in the project areas.

The appropriations were included as part of the FY 2006-07 Budget; therefore, there is no fiscal impact.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AUTHORIZING CERTAIN YOUTH ENDOWMENT SERVICES EXPENDITURES FOR THE LUTHER BURBANK MIDDLE SCHOOL IMPROVEMENTS AND DESIGNATING FUNDS FOR THE ROBERT "BUD" OVRUM PARK PROJECT.

3. AUTHORIZING THE EXECUTION OF A GRANT AGREEMENT, ACCEPTING GRANT FUNDS AND AMENDING THE FISCAL YEAR 2006-07 BUDGET TO FACILITATE THE CONSTRUCTION OF A COMPRESSED NATURAL GAS TIME-FILL STATION:

Staff is requesting Council approval of a resolution authorizing the City Manager to:

execute a grant agreement with the South Coast Air Quality Management District (AQMD) Clean Transportation Funding from the Mobile Source Air Pollution Reduction

Review Committee (MSRC); accept grant funds from the AQMD in the amount of \$287,700; appropriate \$403,912; and, amend the Fiscal Year (FY) 2006-07 Budget.

The Council appropriated \$400,000 in the FY 2005-06 Budget for the design and construction of a Time-Fill Compressed Natural Gas (CNG) fueling station at the City Corporate Yard (Yard). This station will allow refuse trucks to fuel overnight at the Yard, rather than at the busy City-owned public access facility. Due to an increase in anticipated construction costs, an additional appropriation of \$175,000 was approved by the Council in the FY 2006-07 Budget.

In an effort to off-set some of the project costs, staff applied for grant funding in the amount of \$287,700 from the MSRC as part of a local government match program. On March 3, 2006, the AQMD Governing Board approved funding for the project in the amount of \$287,700, which will be paid to the City upon completion of the project.

Preliminary engineering estimates were figured at \$575,000. However, due to certain unknown conditions at the outset of the project, such as location of the station, distance from gas and electrical service feeders, and certain design elements added to enhance safety and productivity, the engineer's original estimate did not encompass all costs unique to the needs of the City's CNG Time-Fill station. In addition, due to significant increased costs of construction materials that are being experienced in all City projects including steel, concrete, electrical materials and labor costs, the estimated cost for the station has risen significantly. The new estimated construction cost for the station is \$978,912. Therefore, an appropriation of \$403,912 is necessary to complete the project.

Recommendation:

Adoption of proposed resolution entitled:
(4/5 vote required)

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AUTHORIZING THE EXECUTION OF A GRANT AGREEMENT TO ACCEPT SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT (AQMD) GRANT FUNDS IN THE AMOUNT OF \$287,700; APPROPRIATING ADDITIONAL FUNDS IN THE AMOUNT OF \$403,912 FOR THE NATURAL GAS FUELING STATION; AND AMENDING THE FISCAL YEAR 2006-2007 BUDGET.

4. APPROVING CHANGE ORDER NO. 1 FOR BID SCHEDULE NO. 1197, PUBLIC WORKS UNDERGROUND TANK RETROFIT PROJECT:

Staff is requesting Council approval of Change Order No. 1 to add \$144,755.62 to the contract with West Star Environmental Inc. for the Public Works Underground Tank Retrofit Project, Bid Scheduled No.1197. West Star Environmental Inc. submitted the

lowest bid of \$739,446 and was awarded the contract on February 7, 2006. Staff recommended and the Council approved an additional \$169,532 for additional work

that was anticipated to be necessary once the tank tops were exposed. However, the additional \$169,532 was inadvertently omitted from Resolution No. 27,165.

As the project has progressed, it was discovered that \$115,883 of the previously identified potential additional work items need to be completed. There have also been additional items discovered that require correction, which will cost an additional \$28,872.62. Change Order No. 1 in the amount of \$144,755.62 will increase the total contract price to \$884, 201.62, which is 19.5 percent of the original contract amount. In addition, the Change Order will extend the date of completion to October 13, 2006, as an additional 41 work days will be required to complete the necessary items.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING CHANGE ORDER NO. 1 IN THE AMOUNT OF \$144,755.62 FOR PUBLIC WORKS UNDERGROUND TANK RETROFIT PROJECT, BID SCHEDULE NO. 1197 AND APPROVING THE PROJECT AS MODIFIED.

5. APPROVAL OF FINAL MAP NO. 54150 – 414 EAST VALENCIA AVENUE:

Staff is requesting Council approval of Final Map No. 54150, a one-lot subdivision totaling 31,874 square feet located at 414 East Valencia Avenue. The property is in the R-4 Residential Multiple Medium Density Residential Zone and is owned by Valencia Empire Homes, LLC, a California Limited Liability Company.

On March 20, 2003, the property owner requested City approval to demolish the existing structures over four lots and convert to a one-lot, 38-unit residential condominiums with a two-level subterranean parking garage. Final Map No. 54150 finalizes the condominium subdivision.

All requirements of the State Subdivision Map Act have been met. The following is a summary of information pertinent to the approval of Final Map No. 54150:

1. The Tentative Tract Map was approved by the Community Development Director on July 9, 2003 pursuant to Burbank Municipal Code (BMC) Section 27-323 (Director's Decision on Tentative Map).
2. The Final Map contains 38 condominium units at 414 East Valencia Avenue, which is located in the R-4 Multiple Medium Density Residential Zone.
3. This project is Categorically Exempt from the provisions of the California Environmental Quality Act pursuant to Section 15268(b) (3) pertaining to approval of final subdivision maps.

4. Conditions of Approval for Tentative Tract Map No. 54150 have been cleared by the Planning Division for the purpose of Final Map approval. The Condition of Approval relating to Covenants, Conditions and Restrictions (CC&Rs) will be satisfied when the applicant submits two recorded copies of the CC&Rs to the Planning Division (applicant cannot record the CC&Rs until this tract map is approved by the Council and recorded at the Los Angeles County Recorder's Office).

According to the State Subdivision Map Act, Chapter 3, Article 4, Section 66458, and the provisions of Chapter 27 of the BMC, the Council must approve Final Map No. 54150 if it conforms to all the requirements. If such conformity does not exist, the Council must disapprove the map at the meeting it receives the map, or at its next regular meeting. If the Council has not authorized an extension to allow more time to disapprove the map, and the map conforms to all requirements, the map shall be deemed approved by operation of law.

Recommendation:

Adoption of proposed resolution entitled:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING
FINAL MAP OF TRACT NO. 54150 (414 East Valencia Avenue).

END OF CONSENT CALENDAR

REPORTS TO COUNCIL:

6. STATE OF RECYCLING UPDATE:

In October 2005, staff presented a State of Recycling report to the Council. The report called attention to the available capacity for collecting more materials that are recyclable on the curbside routes. The Council directed staff to evaluate the effectiveness of the Recycle Center's programs by conducting a waste characterization study and to provide information on Zero Waste. This report will provide information about the recent waste characterization study, Zero Waste and increased waste diversion by redesigning the Recycle Center.

Staff conducted a "before and after" waste characterization study over a two-week period in May 2006 to evaluate the potential effects of additional public outreach on recycling behavior. The study results did not indicate a direct relationship between enhanced outreach efforts and recycling behavior. However, it did provide valuable information about residential recycling habits and identified the types of materials that are being placed in the incorrect curbside carts, which staff will utilize when determining where material specific outreach efforts should be focused. The results of the study indicate that publicity focusing on food waste and plastics disposal could reduce contamination. Staff determined that outreach efforts should be continued and that some outreach materials should be revised. In addition, consideration

should be given to translating more of the materials into Spanish and Armenian.

Burbank's Zero Waste programs, which include an automated collection program, a variable cart rate, commercial recycling, "one-stop drop off" for all recyclables, greenwaste collection, a backyard composting program and public education, have kept City recycling rates over 50 percent since 1997, with the most recent recycling rate estimated to be 60 percent. The City's renewed commitment to waste prevention and recovery would extend the life of our landfill, increase recovery at the Recycle Center, and aid the long-term health of the community. These goals may be reached through expanded and augmented "green purchasing" specifications, revising the Administrative Procedures to include Zero Waste practices, providing waste hauler recycling incentives, establishing performance-based refuse fees for the Burbank Unified School District based upon their recycling participation, supporting State and Federal Extended Producer Responsibility (EPR) and Take Back Program legislation, increasing the backyard composting program, other Zero Waste programs and redesigning the Recycle Center to include a refuse sorting line.

Recommendation:

Staff recommends that Council provide direction on the following proposed activities:

- Adopt a Zero Waste Resolution by the first quarter of 2007;
- Revise the Administrative Procedures by the first quarter of 2007;
- Prepare an analysis of the Recycle Center optimization by the second quarter of 2007; and,
- Continue the outreach study through the first quarter of 2007.

Staff also recommends the consideration of the following:

- Develop performance-based refuse fees for the Burbank Unified School District by July 2008;
- Adopt a Green Purchasing Policy;
- Revise the Green Building Ordinance;
- Review waste hauler recycling incentives or requirements;
- Support State Extended Producer Responsibility legislation; and,
- Assess the feasibility of food, manure and carpet recycling collections.

7. PUBLIC BENEFITS AGREEMENT WITH AT&T:

Staff is seeking authorization for the City Manager to enter into an agreement with Pacific Bell Telephone Company, a California corporation doing business as AT&T California, for the purpose of facilitating AT&T California's Project Lightspeed related network enhancements.

Prior to the June Study Session, AT&T met with or contacted Council Members for the purpose of providing an overview of Project Lightspeed. In an effort to avoid

redundancy and summarize this issue, some of the pros and cons of Project Lightspeed are presented below:

Pros:

- Enhanced internet service to residents;
- Enhanced telephone service to residents;
- Competition for cable television provider;
- Potential for reduced television programming costs; and,
- Ability to mostly use existing infrastructure/conduit.

Cons:

- Aesthetic and space impact on public rights-of-way;
- No guarantee that all residents will be served;
- Eventual VoIP build out could impact Utility Users Tax;
- Impacts during construction; and,
- No timeline for build out.

In order to begin the build out of Project Lightspeed in Burbank, AT&T needs to encroach upon City of Burbank-owned right-of-way and access electricity. While this is typically an administrative process conducted at the staff level, AT&T has recently submitted 130 locations for encroachment, and staff is requesting Council approval of the Public Benefits Agreement prior to authorizing construction. AT&T has already begun discussions with Public Works Department staff on the potential locations of the new infrastructure and Burbank Water and Power staff concerning AT&T's additional power needs.

A lack of agreement continues to exist within the municipal community and a great deal of uncertainty state-wide as to whether AT&T is required to obtain a franchise for Project Lightspeed. While it is the intent of recent legislation to include alternatively delivered TV/Video service such as fiber or wireless as part of the Federal or State-mandated franchise process (AT&T has been a vocal supporter of the streamlined franchising), it may not be until these issues are tried in court that we have conclusive resolution.

The result of this political and legal uncertainty, coupled with AT&T's desire to enter the Burbank marketplace as expeditiously as possible, has created an opportunity for AT&T and the City to enter into an agreement of mutual benefit. By entering into an agreement with AT&T, similar to the agreements in place in Anaheim and Santa Clarita, the City of Burbank could secure financial and performance obligations from AT&T resembling those found in the current cable franchise agreement and AT&T could begin construction on a relatively accelerated timetable. Staff is in favor of an agreement with AT&T for the purpose of expediting the implementation of Project Lightspeed, enabling residents to receive increased internet speeds and services, improved VoIP services and a competitive alternative to cable and satellite services.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING A PUBLIC BENEFITS AGREEMENT BETWEEN THE CITY OF BURBANK AND AT&T CALIFORNIA FOR AT&T'S PROJECT LIGHTSPEED.

8. ATTORNEY GENERAL OPINION REQUEST:

On July 25, 2006, the Council, by consensus, directed the City Attorney to seek an opinion from the Attorney General as to whether a member of the City Council may both appeal a decision from the Planning Board and then argue that appeal at the time and in the place and manner as a normal appellant.

Recommendation:

Staff recommends that the Council determine whether or not to proceed with the opinion request and in what manner.

RECONVENE the Redevelopment Agency and Youth Endowment Services Fund Board meetings for public comment.

FINAL OPEN PUBLIC COMMENT PERIOD OF ORAL COMMUNICATIONS: (Two minutes on any matter concerning the business of the City.)

This is the time for the Final Open Public Comment Period of Oral Communications. Each speaker will be allowed a maximum of **TWO** minutes and may speak on any matter concerning the business of the City. However, any speaker that spoke during the Initial Open Public Comment Period of Oral Communications may not speak during the Final Open Public Comment Period of Oral Communications.

For this segment, a **GREEN** card must be completed, indicating the matter to be discussed, and presented to the City Clerk.

COUNCIL AND STAFF RESPONSE TO THE FINAL OPEN PUBLIC COMMENT PERIOD OF ORAL COMMUNICATIONS:

ADJOURNMENT.

**For a copy of the agenda and related staff reports,
please visit the**

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www.ci.burbank.ca.us**